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QUOTE

C O N F I D E N T I A L DAKAR 0202

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E.O. 11652: GDS

TAGS: PFOR, WA, SHUM

SUBJ: DAKAR INTERNATIONAL CONFERENCE ON NAMIBIA AND

HUMAN RIGHTS: EMBASSY COMMENT

REF: A DAKAR 108, B DAKAR 200, C DAKAR 201

SUMMARY: WORK OF DAKAR NAMIBIA CONFERENCE WAS HANDLED UNDER
DUAL COMMISSION ARRANGEMENT WHICH LIMITED INPUT OF LEFTIST
INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS INTO FINAL
DECLARATION AND PROGRAM OF ACTION. HOWEVER, DECLARATION AND
PROGRAM ACCEPT VIEW THAT IF UNSC FAILS TO MOVE AHEAD AND SA
FAILS TO GET OUT OF NAMIBIA, SWAPO JUSTIFIED IN USING FORCE AND
UNGA MIGHT ITSELF MOVE TO GIVE EFFECT TO RES 2145.
DECLARATION AND PROGRAM DESIGNED TO HAVE SOMETHING FOR ALL
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PARTICIPANTS (CHURCHES, UN COUNCIL FOR NAMIBIA, UN HUMAN
RIGHTS COMMISSIONER, UN COMMISSIONER FOR NAMIBIA AS WELL AS
SENEGALESE, SWAPO AND SPONSORING ORGANIZATIONS) WHILE
AVOIDING FORMULATIONS WHICH WOULD CAUSE DEFECTIONS.FINAL

DOCUMENTS DELETED ALL EXPLICIT CRITICISM OF US EXCEPT IN CONTEXT OF US, UK AND FRENCH VETO OF SC RESOLUTION ON CHAPTER VII SANCTIONS AGAINST SOUTH AFRICA. CALL FOR AFRICAN STEPS TO ISOLATE SOUTH AFRICA THROUGH TRANSPORT TIES WAS DISCUSSED BUT DID NOT APPEAR IN FINAL DOCUMENTS. SUPPORTIVE REFERENCE TO MPLA REGIME WAS INITIALLY ACCEPTED BUT THEN OMITTED FROM FINAL VERSION. SOME EUROPEAN JURISTS WERE DISAPPOINTED AT FAILURE TO BIND SWAPO TO COMPREHENSIVE SET OF COMMITMENTS ON POSGSVS# INDEPENDENCE DOMESTIC HUMAN RIGHTS OBLIGATIONS. DECLARATION AND PROGRAM ARE EXPECTED TO HAVE INTERNATIONAL CONSCIOUSNESS-RAISING FUNCTION AND ARE BOUND TO AFFECT PLANS FOR NEXT UNSC CONSIDERATION OF NAMIBIA. MOST PARTICIPANTS PLEASED WITH DOCUMENTS WHICH THEY VIEW AS RELATIVELY DEVOID OF RHETORIC BUT WITH TEETH. CONFERENCE OBSERVERS SAW CONCLUSIONS AS SIGNIFICANT BLOW TO SOUTHAFRICAN "DIALOGUE" AND "DETENTE" DIPLOMACY. GOS ANNOUNCED FULL APPROVAL OF CONFERENCE DECISIONS AND SENGHOR REPORTEDLY PRESENTING FINAL DOCUMENTS TO OAU IN ADDIS. GOS TOOK EVIDENT PRIDE IN LARGE SENEGALESE SUBSTANTIVE CONTRIBUTION, AS WELL AS EFFICIENT ADMINISTRATION OF CONFERENCE. IN CLOSING REMARKS, GOS PRIME MINISTER DIOUF CALLED FOR STABLE ANGOLA TO FACILITATE SWAPO MOVEMENTS AND URGED GREAT POWERS TO ACCEPT RESPONSIBILITY FOR APPLYING CHAPTER VII IN SOUTHERN AFRICA. END SUMMARY.

2. SUBJECT CONFERENCE ADJOURNED JAN 8 WITH ADOPTION OF "DAKAR DECLARATION" AND "PROGRAM OF ACTION." THIS CABLE COMMENTS ON CONDUCT OF CONFERENCE AND ON CONTENT OF DOCUMENTS PRODUCED, AND SHOULD BE READ IN CONJUNCTION WITH REFTEL B, WHICH PROVIDES SYNOPSIS OF DECLARATION, AND REFTEL C, WHICH SUMMARIZED PROGRAM OF ACTION.

3. SUBSEQUENT TO PLENARY SESSION REPORTED REFTEL A, CONFERENCE WAS DIVIDED INTO TWO WORKING COMMISSIONS, WHOSE RESPECTIVE CONCERNS WERE DEFINED AS: NAMIBIA PAST AND PRESENT (COMMISSION I) AND NAMIBIA PRESENT AND FUTURE (COMMISSION II). COMMISSIONS WERE MECHANISM THROUGH WHICH CONFERENCE MANAGED TO ENCOMPASS REPRESENTATIVES FROM IDEOLOGICALLY DIVERGENT SPONSORING
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INSTITUTIONS: HIGHLY RESPECTED INTERNATIONAL COMMISSION OF JURISTS (ICJ) AND INTERNATIONAL INSTITUTE FOR HUMAN RIGHTS (IIHR) ON THE ONE HAND AND, ONE THE OTHER, LEFTIST ORIENTED INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS (IADL). IADL PRESIDENT NORDMANN AND CHAIRMAN ALLANA OF UN COMMISSION ON HUMAN RIGHTS CO-CHAIRING COMMISSION I, WHILE ICJ SECRETARY-GENERAL NIALL MACDERMOT AND AG. PRES. W. J. GANEHOF VAN DER MEERSCH OF IIHR CHAIRING COMMISSION II. COMMISSION II'S ORIENTATION TOWARD FUTURE DREW MORE PARTICIPANTS AND GAVE IT GREATER INFLUENCE OVER DAKAR DECLARATION AND PROGRAM OF ACTION.

4. DECLARATION WAS REPORTEDLY DRAFTED AT OATSET BY

SENEGALESE COMMISSION OF JURISTS, REVIEWED BY CONFERENCE'S EXECUTIVE BUREAU (SENEGALESE SUPREME COURT FIRST PRESIDENT KEBA MBAYE, VAN DER MEERSRH, MACDERMOT, AND NORDMANN) AND THEN CONSIDERED BY COMMISSIONS. DECLARATION AND PROGRAM WHICH WERE

ULTIMATELY APPROVED BY CONSENSUS IN CLOSING PLENARY HAVE FOLLOWING PRINCIPAL FEATURES RELATING TO FORTHCOMING UNSC MEETING:

A. THEY CONTEMPLATE POSSIBILITY OF WITHDRAWAL IN STEPS, IF SOUTH AFRICA WILL IN GOOD FAITH COMMIT ITSELF TO GETTING OUT.

B. THEY CALL FOR AN ARTICLE 39 DETERMINATION FOLLOWED BY ARMS EMBARGO AND THUS FOR STEPS SUBSTANTIALLY SHORT OF GENERAL ECONOMIC SANCTIONS.

C. THEY RECOMMEND 18 MONTH PERIOD FOR UN ORGANIZATION AND NAMIBIAN POLITICAL CAMPAIGNING BEFORE FREE UN-CONTROLLED ELECTION IS TO BE HELD.

D. THEY ADVANCE VIEW THAT IN MEANTIME, AND IPSO FACTO IF SC FAILS TO MOVE AHEAD AND SA FAILS TO GET OUT, SWAPO IS JUSTIFIED IN USING FORCE AND UNGA MIGHT ITSELF MOVE TO GIVE EFFECT TO GA RES 2145.

THESE RESULTS AND OTHER ELEMENTS OF DECLARATION AND PROGRAM REFLECT EFFORT BY CONFERENCE ORGANIZERS TO ACHIEVE CONSENSUS WITH SOMETHING FOR EVERYONE AND NOTHING TO CAUSE ANYONE TO CONFIDENTIAL

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DEFECT. (LATTER RESULT WAS NARROWLY AVOIDED IN CASE OF IIHR, WHICH INDICATED IT COULD NOT SUPPORT FINAL DOCUMENTS BUT PLEDGED ITSELF TO WORK ON LEGAL LEVEL AND TO PUBLISH CONFERENCE MATERIALS. IN PART, IIHR'S POSITION REFLECTED DIVISION WHICH DEVELOPED EARLY IN CONFERENCE BETWEEN GROUP OF (MOSTLY) EUROPEAN LAWYERS AND SWAPO PARTISANS SEEKING IMMEDIATE DEMONSTRATIONS OF SUPPORT). "PROGRAM OF ACTION" PARA 4 (SOLIDARITY WEEK) 5 (NATIONAL AID COMMITTEES) AND 8 (UN

COUNCIL TO STUDY ACCESSION TO HUMAN RIGHTS COVENANTS) RESPONDED TO SUGGESTIONS BY PRESIDENT SENGHOR. PARA 8 WAS ALSO FOR BENEFIT OF EUROPEANS AND OTHER JURISTS. CHURCH REPS GAINED PARA 13 (SUPPORT TO NAMIBIAN CHURCHES). UN HUMAN RIGHTS COMMISSIONER OBTAINED PARA 9 (LOOK INTO NAMIBIAN VIOLATIONS AND PREPARE CASES FOR PROSECUTION); COMMISSIONER FOR NAMIBIA GAINED, INTER ALIA, PARAS 16 (APPEAL FOR TRAINING FUNDS) AND 17 (STUDIES ON URANIUM ETC.).

6. REFERENCES TO SPECIFIC STATES ACCUSED OF SUPPORTING SOUTH AFRICA IN NAMIBIA OR AT HOME WERE MUCH MORE FREQUENT IN COMMISSION DISCUSSIONS THAN IN TONED-DOWN DECLARATION AND PROGRAM APPROVED BY CONFERENCE AT LARGE. COMMISSIONS

UNPUBLISHED CONCLUSIONS MADE REFERENCE TO "OBVIOUS COMPLICITY" OF US, JAPANESE AND WESTERN EUROPEAN COMPANIES IN SYSTEMATIC LOOTING OF NAMIBIAN RESOURCES, OFTEN BACKED BY THEIR GOVERNMENTS. FRENCH ARMS SALES TO SOUTH AFRICA WERE ALSO CRITICIZED BY COMMISSIONS, AS WAS FRG NUCLEAR COOPERATION WITH SA. CRITICISM WAS DIRECTED TO "COMPLEMENTARY AND SOLIDARITY"

OF US AND JAPANESE ECONOMIES WITH SA. BY CONTRAST, NO SPECIFIC COUNTRIES WERE SINGLED OUT FOR EXPLICIT CRITICISM IN FINAL DOCUMENTS ASIDE FROM REFERENCE IN PARA 3 OF DECLARATION TO "REGRETTABLE" VETO BY US, UJ AND FRANCE WHICH PREVENTED SC FROM APPLYING CHAPTER VII SANCTIONS IN SA (AND, BY IMPLICATION, CAUSED "INDIGNATION" IN AFRICA AND ELSEWHERE) AND SUGGESTION IN "PROGRAM" (PARA 1) THAT FRG CLOSE WINDHEOK CONSULATE AND REEDUCATE GERMANS IN NAMIBIA. (EEC AND EFTA FINANCIAL RELATIONS WITH SOUTH AFRICA ALSO WERE SPECIFICALLY MENTIONED).

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7. COMMISSIONS URGED AFRICAN STATES TO BE ALERT TO RESPONSIBILITY TO TAKE STEPS TO ISOLATE SOUTH AFRICA, PARTICULARLY THROUGH ITS SEA, AIR AND COMMERCIAL TIES. HOWEVER, CORRESPONDING INJUNCTION WAS NEVER INCORPORATED INTO FINAL DOCUMENT.

8. PROPOSAL WAS MADE FROM FLOOR AND INITIALLY ACCEPTED WITHOUT DEMURRAL THAT REFERENCE TO "PEOPLE OF ANGOLA" BE AMENDED TO READ "PEOPLE'S REPUBLIC OF ANGOLA." HOWEVER, POSSIBLY DUE TO SENSIBILITIES OF SENEGALESE (WHO HAVE MAINTAINED STRICT NON-RECOGNITION POSITION ON ANGOLA), CHANGE FAILED TO APPEAR IN FINAL DOCUMENT.

9. SOME IIHR JURISTS HAD SEEN CONFERENCE AS UNIQUE OPPORTUNITY TO BIND NEW STATE TO INTERNATIONAL OBLIGATIONS ON DOMESTIC HUMAN RIGHTS POLICIES. DISCUSSION BOGGED DOWN, #923;34, OVER QUESTION OF WHERE AND WHEN LEGAL POWER TO BIND FUTURE NAMIBIAN STATE TO COVENANTS MIGHT BE FOUND. SWAPO REPRESENTATIVES BECAME IMPATIENT WITH DEBATE, LEADING TO COMPROMISE REFLECTED IN PARA 8 OF PROGRAM OF ACTION IN WHICH UN COUNCIL FOR NAMIBIA IS TO "CONSIDER POSSIBILITY" OF ADHERING TO COVENANTS ON HUMAN RIGHTS. DURING WRANGLES ON THIS AND OTHER ISSUES AT CONFERENCE MID-POINT, BOTH SWAPO PRESIDENT NUJOMA AND SOME IIHR REPRESENTATIVES REPORTEDLY THREATENED TO QUIT CONFERENCE.

10. AN INTERESTING UNCERTAINTY DEVELOPED WHEN CEDRIC THORNBURY OF LONDON SCHOOL OF ECONOMICS' LAW FACULTY (WHO HAS BEEN LEGAL ADVISOR TO SWAPO) PROPOSED STATEMENT FOR DECLARATION THAT SHOULD SC REMAIN FRUSTRATED BY VETO, GENERAL ASSEMBLY MIGHT EXERCISE ITS CHARTER POWERS (UNSPECIFIED) TO GET SOUTH AFRICA OUT. HE WAS SUPPORTED BY PROF FRANK NEWMAN (US). HOWEVER, SOUTH AFRICAN LAW PROFESSOR JOHN DUGGARD SUGGESTED EXTREME LEGAL DIFFICULTIES INVOLVED WHILE SWAPO ALSO INITIALLY

THOUGHT IT COULD NOT SUPPORT IDEA. MATTER WAS ASSIGNED TO SUB-COMMITTEE WHICH EVENTUALLY REPORTED BACK WITH SWAPO ACQUIESCENCE IN FORM RESULTING IN PARA 3 OF PROGRAM. PARTICIPANT CREDIBLY SUGGESTS THAT SWAPO'S INITIAL HOLD-BACK WAS UNCERTAINTY AS TO WHETHER USSR, IN VIEW ITS ANTI-UNITING FOR PEACE STANCE, WOULD OBJECT.

11. WITH RESPECT TO DECREE NO 1, INTERVENTION BY LAWYERS FEARING VARIOUS LEGAL DIFFICULTIES (E.G. WILLIAM BUTLER OF ICJ LED TO CONFIDENTIAL

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FORMULATION RECOMMENDING THAT STATES TAKE "MEASURES" NECESSARY TO APPLY DECREE (PARA 7 OF PROGRAM).

12. TO EXTENT THAT IT WAS PURPOSE OF CONFERENCE ORGANIZERS TO RAISE WORLD CONSCIOUSNESS OF SWAPO'S AIMS AND SOUTH AFRICA'S INTRANSIGENCE, DAKAR CONFERENCE, DECLARATION AND PROGRAM HOLD CONSIDERABLE PROMISE. THEY ARE ALSO BOUND TO ENTER INTO PLANS FOR NEXT UNSC MEETING ON NAMIBIA. IN THIS CONNECTION ORGANIZERS STATE THAT CONFERENCE CONCLUSIONS ARE BEING BROUGHT

TO ATTENTION OF OAU IN ADDIS ABABA BY PRESIDENT SENGHOR. GENERAL CONSENSUS AMONG PARTICIPANTS WAS THAT CONFERENCE HAD SUCCEEDED IN PRODUCING DOCUMENTS MODERATE IN TONE AND RELATIVELY DEVOID OF RHETORIC BUT WITH TEETH. CHURCH REPS AND SEVERAL US DELEGATES TOOK CREDIT FOR MODERATING DRAFT LANGUAGE AT SEVERAL POINTS AND VIEWED OUTCOME AS POSITIVE COMPROMISE. CHURCH REPS (WHOSE PRESENCE WAS PARTICULARLY STRONG AND WELL COORDINATED) REGRETTED THAT MORE OF THEIR WORK (DONE PRIMARILY IN COMMISSION I) DID NOT GET INTO DECLARATION AND PROGRAM, BUT THEY REGARD FINAL DOCUMENTS AS FIRM BASIS FOR CONTINUED SUPPORT FOR THEIR COUNTERPARTS IN NAMIBIA.

13. WEST AFRICAN SWAPO REP HISHONGWA TOLD EMBOFF THAT, WHILE LARGE CONFERENCE TENDED TO BOIL CONSENSUS DOWN TO LOWEST COMMON DENOMINATOR, SWAPO WAS PLEASED WITH RESULTS AND HAD "DISCOVERED THAT WE HAVE A LOT OF FRIENDS." UN COMMISSIONER MACBRIDE CALLED CONFERENCE "TURNING POINT IN RAPID LIBERATION OF NAMIBIA," PARTICULARLY IN ITS STRONG ENDORSEMENT OF THREAT TO WORLD PEACE AND SECURITY REPRESENTED BY NAMIBIAN SITUATION. SOUTH AFRICAN UNIVERSITY PROFESSOR BAREND VAN NIEKERK COMMENTED PRIVATELY THAT DOCUMENT COULD REPRESENT "DEATH KNELL" OF "DETENTE" DIPLOMACY IN SOUTHERN AFRICA. JOURNALISTS TOLD EMBOFFS THEIR DISPATCHES WOULD EMPHASIZE TELLING BLOW TO "DIALOGUE" AND "DETENTE."

14. AT FINAL SESSION SENEGALESE PRIME MINISTER DIOUF ANNOUNCED GOS FULLY APPROVED ALL CONFERENCE DECISIONS. HE NOTED WITH SATISFACTION THAT PROPOSALS MADE BY SENGHOR AT OPENING SESSION APPEARED PROMINENTLY IN PROGRAM OF ACTION. DIOUF DEPLORED "LOOTING OF INTELLECTUAL AND MATERIAL RESOURCES" FROM

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NAMIBIA AND CRITICIZED "PASSIVE ACCEPTANCE OF CERTAIN GREAT POWERS" OF APARTHEID REGIME IN SOUTH AFRICA. CALLING FOR RESOLUTION OF ANGOLAN CONFLICT, DIOUF SAID "STRONG AND STABLE ANGOLA" WAS ESSENTIAL TO FACILITATE MOVEMENTS OF SWAPO IN AREA. HE SAID THAT INTERNATIONAL COMMUNITY-- "ESPECIALLY GREAT POWERS"--MUST ACCEPT REEPONSIBILITY FOR APPLYING CHAPTER VII TO SOUTHERN AFRICAN SITUATION. GOS SATISFACTION IN CONFERENCE OUTCOME REFLECTED ELEMENT OF NATIONAL PRIDE IN LARGE SENEGALESE CONTRIBUTION TO SUBSTANTIVE DOCUMENTS AS WELL AS THEIR EFFICIENT ADMINISTRATION OF CONFERENCE SECRETARIAT. SENEGAL SUPREME COURT PRESIDENT MBAYE, WHO PRESIDED OVER CONFERENCE, POINTED OUT THAT GOS HAD SPENT \$180,000 ON CONFERENCE, AND EXPRESSED FOROAL THANKS TO SENEGALESE JURISTS FOR OUTSTANDING WORK, REMARKING THAT CONFERENCE DEMONSTRATED "ONCE MORE THE AVAILABILITY OF SENEGALESE JURISTS EVERY TIME THE STRUGGLE FOR HUMAN RIGHTS AND FREEDOM HAVE TO BE DEALT WITH." PRESIDENT SENGHOR'S REPORTED INTENTION TO PRESENT DAKAR DECLARATION AND PROGRAM OF ACTION TO OAU SUMMIT REFLECTS EFFORT TO GAIN FURTHER MILEAGE FOR SENEGAL FROM CONFERENCE.

AGGREY

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